
SENATE BILL No. 151

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-17.2; IC 20-27-4-1.

Synopsis: Child care regulation. Specifies that a licensed child care provider is considered to be in compliance with requirements for federal Child Care and Development Fund (CCDF) voucher payments. Specifies child/caregiver ratios. Amends drug testing requirements for CCDF providers. Prohibits inclusion of identifying information about children on the division of family resources Internet site. Makes child care ministry inspections semiannual and as necessary. Allows licensed child care centers to enter into agreements with a school corporation to purchase a school bus. Requires the division of family resources to amend the child care center rules as specified in several aspects concerning the operation of a child care center.

Effective: Upon passage.

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January 9, 2006, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 151

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-17.2-2-1, AS AMENDED BY P.L.162-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1. The division shall perform the following
4 duties:

5 (1) Administer the licensing and monitoring of child care centers
6 or child care homes in accordance with this article.

7 (2) Ensure that a national criminal history background check of
8 the applicant is completed through the state police department
9 under IC 10-13-3-39 before issuing a license.

10 (3) Ensure that a criminal history background check of a child
11 care ministry applicant for registration is completed before
12 registering the child care ministry.

13 (4) Provide for the issuance, denial, suspension, and revocation of
14 licenses.

15 (5) Cooperate with governing bodies of child care centers and
16 child care homes and their staffs to improve standards of child
17 care.



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(6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(7) Deposit all license application fees collected under section 2 of this chapter in the child care fund.

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

- (i) the identity of the child care provider;
- (ii) the date of the violation; and
- (iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

The Internet site may not contain the address of a child care home **or information identifying an individual child**. However, the site may include the county and ZIP code in which a child care home is located.

(10) Provide or approve training concerning safe sleeping practices for children to:

(A) a provider who operates a child care program in the provider's home as described in IC 12-17.2-3.5-5(b); and

(B) a child care home licensed under IC 12-17.2-5;

including practices to reduce the risk of sudden infant death syndrome.

SECTION 2. IC 12-17.2-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. **However, a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter.**

(b) If a school age child care program that is:

- (1) described in IC 12-17.2-2-8(10); and
- (2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is

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considered to be in compliance with the requirement under this chapter.

SECTION 3. IC 12-17.2-3.5-5.5, AS AMENDED BY P.L.162-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.

(b) A provider that provides child care for:

(1) fewer than seventeen (17) children shall at all times maintain the ratio of caregivers to children in the provider's care that is required by the division for a provider licensed under IC 12-17.2-5; or

(2) more than sixteen (16) children shall at all times maintain the ratio of caregivers to children in the provider's care that is required by the division for a provider licensed under IC 12-17.2-4.

~~(b)~~ (c) A provider who operates a child care program in the provider's home (including a child care home licensed under IC 12-17.2-5) and who receives a voucher payment under this chapter shall complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices.

SECTION 4. IC 12-17.2-3.5-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.1. (a) A provider shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
 - (A) is employed; or
 - (B) volunteers;
 as a caregiver at the facility where the provider operates a child care program.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
 - (A) use of:
 - (i) tobacco;
 - (ii) alcohol; or

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- 1 (iii) a potentially toxic substance in a manner other than the
 2 substance's intended purpose; and
 3 (B) use or possession of an illegal substance;
 4 is prohibited in the facility where the provider operates a child
 5 care program when child care is being provided.
 6 (2) That drug testing of individuals who serve as caregivers will
 7 be:
 8 (A) performed ~~on a random basis~~, based on a protocol
 9 established or approved by the division; and
 10 (B) required if an individual is suspected of noncompliance
 11 with the requirements specified under subdivision (1).
 12 (c) A provider that is a child care ministry or a child care center
 13 shall maintain a written policy specifying the following:
 14 (1) That the:
 15 (A) use of:
 16 (i) tobacco; or
 17 (ii) a potentially toxic substance in a manner other than the
 18 substance's intended purpose; and
 19 (B) use or possession of alcohol or an illegal substance;
 20 is prohibited in the facility where the provider operates a child
 21 care program when child care is being provided.
 22 (2) That drug testing of individuals who serve as caregivers will
 23 be:
 24 (A) performed ~~on a random basis~~, based on a protocol
 25 established or approved by the division; and
 26 (B) required if an individual is suspected of noncompliance
 27 with the requirements specified under subdivision (1).
 28 (d) If:
 29 (1) the drug testing results obtained under subsection (a), (b), or
 30 (c) indicate the presence of a prohibited substance described in
 31 subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or
 32 (c)(1)(B); or
 33 (2) an individual refuses to submit to a drug test;
 34 the provider is ineligible to receive a voucher payment until the
 35 individual is suspended or terminated from employment or volunteer
 36 service at the facility or no longer resides with the provider.
 37 (e) A provider that suspends an individual described in subsection
 38 (d) shall maintain a written policy providing for reinstatement of the
 39 individual following rehabilitation and drug testing results that are
 40 negative for a prohibited substance described in subsection
 41 (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).
 42 (f) Drug testing results obtained under this section are confidential

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and may not be disclosed for any purpose other than the purpose described in this section.

SECTION 5. IC 12-17.2-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. Except as provided in section 18.7 or 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of:

(1) an enforcement action; **or**

(2) the inclusion of information specified in IC 12-17.2-2-1(9)(A) concerning the licensee on the Internet site established under IC 12-17.2-2-1.

The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.

SECTION 6. IC 12-17.2-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) An administrative hearing concerning the decision of the division to:

(1) impose a sanction under this chapter; **or**

(2) include information as described in section 19(2) of this chapter;

shall be provided upon a written request by the child care center. The request must be made within thirty (30) calendar days after receiving notice under section 18.7 or 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

SECTION 7. IC 12-17.2-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. Except as provided in section 18.7 or 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of:

(1) an enforcement action; **or**

(2) the inclusion of information specified in IC 12-17.2-2-1(9)(A) concerning the licensee on the Internet site established under IC 12-17.2-2-1.

The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.

SECTION 8. IC 12-17.2-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) An administrative hearing concerning the decision of the division to:

(1) impose a sanction under this chapter; **or**

(2) include information as described in section 19(2) of this

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chapter;

shall be provided upon a written request by the child care home. The request must be made within thirty (30) calendar days after receiving notice under section 18.7 or 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

SECTION 9. IC 12-17.2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The division shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the rules of the division adopted under IC 12-17.2-2-5(a).

(b) The division shall make an inspection **described in subsection (a):**

(1) at least ~~quarterly~~ **semiannually; and**

(2) additionally as determined necessary by the division.

SECTION 10. IC 20-27-4-1, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A school corporation may purchase a school bus or special purpose bus to furnish transportation for students. The school corporation may purchase:

(1) both the body and the chassis of a school bus; or

(2) either the body or the chassis.

A purchase may be made for cash or under the terms of a security agreement.

(b) **A school corporation shall enter into an agreement with a child care center that:**

(1) **is licensed under IC 12-17.2-4;**

(2) **is located in the school corporation; and**

(3) **requests the agreement;**

to purchase a school bus for the child care center.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) **This SECTION applies to a child care center licensed under IC 12-17.2-4.**

(b) **The division of family resources shall, under IC 4-22-2, adopt new rules or amend existing rules to do the following:**

(1) **Provide that:**

(A) **a child care center may use instructional rooms, music rooms, gymnasiums, theaters, and similar structures on the licensed premises, regardless of whether the area contains all educational equipment and materials required by 470**

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IAC 3-4.7-63;

(B) a child care center may move children from one (1) area to another in a licensed facility as long as the child care center maintains the required child to staff ratios; and
(C) all space used by children is counted when calculating square footage and capacity.

(2) Provide that lead caregivers may satisfy the educational requirements with either of the following:

(A) A bachelor of arts or bachelor of science degree from an accredited college or university that includes content relating to the needs, skills, development, or teaching methods of children or families.

(B) At least two (2) years experience in a licensed child care center.

(3) Provide that the written application for admission of each child, signed by the child's parent, is not required to include information concerning a dentist.

(4) Provide that a maximum group size does not apply for children more than two (2) years of age at a child care center licensed before August 11, 2003.

(5) Specify a child to staff ratio for children at least six (6) years of age of 20:1 with a maximum group size of forty (40).

(6) Specify no continuity of care provisions.

(7) Specify that caregivers must use positive discipline, but allow for reasonable and age appropriate:

(A) time-out as a method of discipline for a child less than three (3) years of age; and

(B) punishment to correct unacceptable behavior; if positive discipline measures have proven ineffective.

(8) Not require a particular approach to early childhood education, and allow a child care center to develop and deliver a program philosophy adopted by the child care center, including choice of:

(A) teaching strategies;

(B) learning environment;

(C) toys;

(D) equipment;

(E) arrangement of equipment in the child care center; and

(F) use of television.

(9) Require the child care center to inform parents upon the initial interview of the child care center's program philosophy. However, the program must provide

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opportunities for children to participate in art, music, small motor activities, large motor activities on a daily basis, including blocks and accessories, books, riding toys, art materials, musical instruments, puzzles, games, and dramatic play equipment that are developmentally appropriate and sufficient for the number of children in the child care center's care.

(10) Not include requirements for coping with separation, but include suggestions for coping with separation.

(11) Allow for a child care center that was licensed before August 11, 2003, to maintain an outdoor play area built before August 11, 2003, with fifty (50) square feet for each child outdoors at any one (1) time.

(12) Allow twenty (20) children who are at least six (6) years of age to ride on a school bus with one (1) driver.

(13) Not require:

(A) indoor climbing structures and steps; or

(B) an art easel with paint and paper, riding toys, or blocks and accessories;

in each toddler room.

(14) Allow for an infant who is sitting in a high chair and can hold the infant's own bottle to self-feed with a bottle.

(15) Allow parents to determine whether to provide powdered formula for their children without a doctor's prescription.

(16) Allow toddlers to eat in the child care center's cafeteria if child to staff ratios are maintained and only toddlers are eating in the cafeteria at the time.

(17) Allow cutouts on headboards of toddler cribs if the cutouts are small enough that a child's head or extremity is not in danger of becoming trapped in the cutout.

(c) A rule, or a part of a rule, that does not comply with this SECTION is void.

SECTION 12. An emergency is declared for this act.

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